

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Timothy Jerome Warren,

PETITIONER,

v.

Warden Nelson,

RESPONDENT.

Case No. 2:19-cv-02857

Order

Petitioner Timothy Warren, a *pro se* state prisoner, filed this petition for habeas corpus under 28 U.S.C. § 2254. ECF No. 1. The matter now comes before the Court for review of the Report and Recommendation (Report) filed by the magistrate judge to whom this case was assigned. ECF No. 10. Petitioner is serving sentences on four drug charges. He has previously filed a petition for habeas relief under § 2254. That petition was denied as untimely and the case was dismissed. *Warren v. Cartledge*, No. 2:16-cv-1911-TLW-MGB, 2017 WL 3972460 (D.S.C. Sept. 7, 2017), *report and recommendation adopted*, 2017 WL 3923376 (D.S.C. Sept. 7, 2017), *appeal dismissed*, 765 F. App'x 34 (4th Cir. 2019) (*per curiam*).

In the Report, the magistrate judge found that due to the 2017 dismissal of Warren's previous § 2254, before Warren may file a "second or successive" § 2254 petition challenging his 2010 convictions, he must first ask for, and then receive, an order from the Fourth Circuit Court of Appeals authorizing him to file such a petition and allowing this Court to consider it. See ECF No. 10 at 2. As Petitioner has not shown that the Fourth Circuit has issued such an order, the magistrate judge recommends that the case be dismissed. Plaintiff did not file objections to the Report. This matter is now ripe for decision.

The Court is charged with conducting a *de novo* review of any portion of the Report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that Report. 28 U.S.C. § 636. In the absence of objections to the Report, the Court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 200 (4th Cir. 1983). In such a case, “a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

The Court has carefully reviewed the Report. For the reasons stated by the magistrate judge, the Report, ECF No. 10, is **ACCEPTED**. This action is hereby **DISMISSED WITHOUT PREJUDICE**.¹ Additionally, the Court declines to issue a certificate of appealability because the petitioner has not made a “substantial showing of the denial of a Constitutional right.” 28 U.S.C. § 2253(c)(2); *see also* Rule 11(a), Rules Governing § 2254 Cases.

IT IS SO ORDERED.

s/ Terry L. Wooten
Terry L. Wooten
Senior United States District Judge

May 13, 2020
Columbia, South Carolina

¹ In light of the dismissal of the case, the Motion for Leave to Proceed in forma pauperis, ECF No. 8, is moot.